

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Roosevelt Park Master Plan

PROJECT FILE NUMBER: PP03-12-397

PROJECT DESCRIPTION: Roosevelt Park Master Plan Amendment to improve and expand Roosevelt Park, including site acquisition and relocation of existing uses. The updated Master Plan includes the construction of an 8,000 sq ft Skate Park; demolition of the existing 8,800 sq ft community center building and construction of a 50,000 sq ft community center building; construction of an expanded picnic area; demolition of existing structures; vacation of a section of 20th Street; construction of Coyote Creek trail extension; demolition of the existing Roller Hockey Rink and construction of a new Roller Hockey Rink; upgrades to the existing softball field; construction of an aquatic center; construction of parking lots and a structured parking garage with retail uses on the ground floor; and associated landscaping improvements, street improvements, and pedestrian pathways. The creation of the Roosevelt Park Master Plan was coordinated with the improvements planned by the San Jose Unified School District for the adjacent lands used by San Jose High Academy.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Northwestern corner of East Santa Clara Street and North Twenty First Street; 467-12-001, -002, -005, -006, -007, -008, -009, -010, -012, -013, 467-11-039, -041

COUNCIL DISTRICT: 3

NAME OF APPLICANT: City of San Jose

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

TREES

Impact: The Master Plan will result in the removal of 46 trees on City and School property, of which 12 are ordinance size. Trees located on private property will be surveyed and appropriate mitigation identified prior to acquisition.

Mitigation:

Each tree to be removed shall be mitigated at the following ratios:

- Each tree less than 12" in diameter to be removed = one 15 gallon tree
- Each tree 12" to 18" diameter to be removed = two 24" box trees
- Each tree greater than 18" diameter to be removed = four 24" box trees

For all trees to be retained, protective mesh fencing shall be erected at the limit of disturbance prior to construction. The fencing shall be maintained throughout the construction period. Any substantial disturbance with the drip line of retained trees shall be conducted under the supervision of a qualified arborist. The arborist shall instruct construction workers to hand cut roots, irrigate cut areas, or implement other measures as deemed necessary. There shall be no staging of construction equipment within the dripline of any tree to be preserved.

LIGHTING

Impact: New pedestrian lighting is proposed for pathways along Coyote Creek, to facilitate winter evening commuter use of the trail by cyclists and pedestrians. Lighting will also be installed at the softball and baseball fields, and the new aquatic center.

Mitigation:

Lights along the Coyote Creek trail and bridge will be operated only during winter evenings, from sunset to no later than 11:00pm. After that time, the lights will be turned off to discourage night use of the bridge and trail.

All proposed lighting shall be designed to avoid light and glare impacts to the riparian corridor and neighbors. Lights within 200 feet of the riparian area shall be low glare, full cutoff pathway lighting directed downward and set as low as feasible in height (bollard lighting is preferred) with light sources not visible from riparian areas or from across the creek. All lights shall be low or high pressure sodium, full cut-off luminaries.

New recreational field lighting shall be state-of-the-art, directed, full cut off luminaries to minimize overspill into surrounding homes and turned off no later than 11:00pm.

Security lighting intended to provide nighttime illumination of the Aquatic Center shall be as low as feasible and be directed away from the riparian corridor. Light sources shall not be visible from the riparian areas and shall not illuminate riparian areas or cause glare on the other side of Coyote Creek.

SHORT TERM AIR QUALITY

Impact: The project would result in short-term air quality impacts during construction associated with an increase in suspended particulates (i.e. dust).

Mitigation:

Prudent precautions should be taken during construction activities. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site. The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The following construction practices should be implemented during all phases of construction on the project site. With the inclusion of these mitigation measures, the short-term air quality impacts associate with construction will be reduced to less-than-significant levels.

- Use dust-proof chutes for loading construction debris onto trucks
- Water to control dust generation during demolition of structures and break-up of pavement
- Cover all trucks hauling demolition debris from the site

- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind
- Cover all trucks hauling soil, sand, or other loose materials, or require trucks to maintain at least two feet of freeboard
- Sweep daily (preferably with water sweepers) all paved access road, parking areas, and staging areas at construction sites
- Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.)
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways
- Replant vegetation in disturbed areas as quickly as possible

COYOTE CREEK AND SPECIAL STATUS SPECIES

Impact: The project has generally been designed to avoid impacts to the creek and the riparian corridor. The precise placement of the pedestrian bridge is not currently known, but it is expected to be installed to avoid the loss of trees within the riparian woodland to the extent practicable. Construction of the bridge may also result in the removal of some riparian vegetation. It is assumed, however, that the bridge would completely span the creek and not impact areas under the jurisdiction of the US Army Corp of Engineers or Regional Water Quality Control Board. The project will be required to submit for additional environmental clearance when the design of the bridge is known.

Construction activities associated with the park improvements may incidentally harm or injure Western pond turtles that may have hauled out of the creek, or may increase the sediment load of the creek, or otherwise alter the water quality for steelhead and other aquatic organisms.

Mitigation:

- A qualified biological monitor will be present during construction within 200 feet of the creek to ensure that the project does not inadvertently impact areas intended to be preserved nor injure, harm or kill a sensitive species.
- Pre-construction surveys 48-hours prior to initiation of construction shall be done to ensure that neither the western pond turtle nor other sensitive aquatic species have not moved into the upland areas adjacent to the creek. While the red-legged frog is not expected to occur, these surveys would also ensure that this species is absent during construction.
- Construction fencing shall be placed around the areas to be preserved to ensure that construction activities do not inadvertently impact these areas.
- The construction crew shall be trained to ensure that they are not only aware of the protective measures they are to employ, but also understand the purpose of such measures
- No construction activity shall occur within the bed of the creek
- Only passive uses, such as a pedestrian trail, shall be allowed within the 100 foot riparian setback, with the exception of a minor portion of the outfield of the softball field.
- Additional environmental review of the pedestrian bridge will be needed when the precise placement and design are known. The Bridge shall be designed to avoid the loss of trees within the riparian area to the extent practicable. The Bridge construction may also result in a limited impact on the riparian habitat. This impact will be mitigated through the replacement plantings of riparian vegetation.
- Construction of the bridge shall occur between June 1 and October 15 to minimize both direct and indirect impacts to steelhead, western pond turtle and other aquatic organisms.

WATER QUALITY

Impact: Demolition and construction activities on the project site may result in an increase in erosion affecting the quality of storm water runoff. In addition, surface runoff from the proposed development could somewhat increase urban pollutants.

Mitigation:

- All new impermeable surfaces, with the exception of the pedestrian trail, shall be constructed outside of the 100 foot riparian setback.
- A Storm Water Pollution Prevention Plan (SWPPP) in compliance with the local NPDES permit shall be developed and implemented including: 1) site description; 2) erosion and sediment controls; 3) waste disposal; 4) implementation of approved local plans; 5) proposed post-construction controls, including description of local post-construction erosion and sediment control requirements; 6) Best Management Practices (BMP) such as the use of infiltration of runoff onsite, first flush diversion, flow attenuation by use of open vegetated swales and natural depressions, stormwater retention or detention structures, oil/water separators, porous pavement, fossil filters, or a combination of these practices for both construction and post-construction period water quality impacts; and 7) non-storm water management.
- The project shall submit an erosion control plan to the City of San Jose and the RWQCB. All proposed erosion control measures shall be established in conformance with the City and County grading ordinances, RWQCB regulations, and the Santa Clara Valley Urban Runoff Pollution Prevention Program.

RAPTORS

Impact: Large trees within the site's riparian woodland area provide potential nesting habitat for raptors. While raptors are not presently nesting on the site, they could do so in the future.

Mitigation:

If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Planning Department at least one week prior to any grading or building construction.

CULTURAL RESOURCES

Impact: Improvement of the existing park is not expected to unearth a historic, religious or sacred site, however, the possibility of such an event cannot be completely eliminated.

Mitigation:

There shall be monitoring of site excavation activities, such as trenching within 200 feet of Coyote Creek, and Site Clearing and grading of soils between 20th and 21st Streets, to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources

- If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
- If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning,

describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)

- In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
- In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- A final report shall be submitted to the Director of Planning prior to occupancy of any building. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

ASBESTOS AND LEAD PAINT

Impact: The project includes the demolition of existing structures on the site that may contain asbestos and lead paint. Additional pre-demolition surveys will be required for any private properties acquired and incorporated into the project.

Mitigations:

All OSHA and EPA regulations shall be adhered to if asbestos and/or lead paint containing materials are to be disturbed.

NOISE

Impact: Construction of the project would temporarily increase noise levels at adjacent receptors. The project may expose neighboring properties to interior noise levels in excess of those recommended by the City of San Jose General Plan.

Mitigation:

- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.
- All stationary noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and businesses. The setback shall be determined in the field based on changing construction conditions.
- All permanent mechanical roof equipment shall be screened with architecturally integrated baffles to reduce transmission of noise to ground level receptors. All ground level equipment shall be installed located away from receptors or enclosed so as to reduce noise to nearby receptors.

HISTORIC

Impact: None of the structures proposed for demolition by the Master Plan qualify for the California or National Register, nor as a City Landmark. Therefore, no significant historic impacts will occur and no mitigation is required to reduce the impact to less than significant. However, some of the structures may have distinctive architectural features of interest to the public for salvage or relocation.

Mitigation:

Buildings located at 40 N 20th Street, 32 N 20th Street, and 21 N 21st Street, and any distinctive architectural features of these buildings shall be made available for salvage and/or relocation. The Applicant shall consult with History San José, the Preservation Action Council of San Jose, the City's Historic Preservation Officer, and the Historic Landmarks Commission, and other interested parties, and provide them any elements of the building identified as warranting salvaging for public information or reuse in other locations. Any elements not identified through this effort shall be made available to other interested parties, which shall be contacted at least 30 days prior to demolition activities and given the opportunity to examine the buildings and salvage surplus elements. This 30 day notice shall be in the form of an advertisement in the San Jose Mercury news and a large sign shall be placed at the site. If an interested party offers to relocate any of the structures, the cost of the demolition of that structure shall be offered to anyone with a viable relocation offer. A letter documenting the salvage and/or relocation offers shall be submitted to the City's Historic Preservation Officer, at least one week prior to demolition.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **January 12, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: December 23, 2003

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Adopted on: _____

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Project Name: Roosevelt Park Master Plan

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